

ever, the said judge of the said respective courts shall close said box and either lock or seal the same securely and keeping the key or seal thereof himself shall deposit the said box containing the remaining ballots with the clerk of the said court to be by him safely kept free from any handling or interference by any person whatever, unless it be in the presence of the said judge and by his direction and then only in the manner herein directed; and if for the trial of any cause or causes, whether civil or criminal, in the said circuit court, a talesman or talesmen be required, the judge of the said court may order the sheriff to summon such talesman or talesmen either from a list of names that shall be drawn from the said box containing the said ballots in the mode and manner as directed by the preceding section and furnished to the said sheriff or from the community at large, as heretofore practised.

Cited but not construed in *State v. Vincent*, 91 Md. 725.

See notes to sec. 11.

1904. art. 51, sec. 10. 1888. art. 51, sec. 10. 1867, ch. 329, sec. 5. 1870, ch. 331. 1878, ch. 369. 1890, ch. 62. 1892, ch. 153. 1900, ch. 130.
1902, ch. 341. 1904, ch. 184.

10. Of the forty-eight jurors drawn and summoned, the court at the beginning of the term for which they were drawn and summoned shall select and appoint one as foreman of the grand jury and shall direct the clerk of said court to legibly write upon ballots the names of the remaining forty-seven jurors, and after carefully folding said ballots separately to place them in a box with a sliding top, and said clerk shall draw said ballots therefrom one at a time without looking into said box and the first twenty-two names drawn, with the foreman previously appointed, shall constitute the grand jury, and the remaining twenty-five names shall constitute the petit jury for said term of court; whenever a vacancy shall occur in the position of foreman of the grand jury, either temporary or permanent, by death, absence, sickness or any other cause, the court shall have power to appoint some other member of the grand jury foreman as often as the necessity for such appointment shall occur. If for any reason any person or persons drawn as a grand juror or grand jurors shall fail to attend and be present at the conclusion of the drawing or be disqualified or excused for cause the court shall forthwith proceed to fill such vacancies from the aforesaid remaining number of twenty-five names of those who are present in the order in which the names were drawn from the box and may thereupon in its discretion fill such vacancy or vacancies thus made in the petit jury by drawing the necessary number of additional names therefor in manner provided by section 8 of this article. This section is modified as to Prince George's county and Talbot county.

An indictment found by a number of grand jurors less than the minimum provided by law, is invalid unless the defect is waived by pleading to the merits. Where a defect appears on the face of the indictment it will be quashed upon demurrer; otherwise the defect should be raised by plea in abatement. This section extends to Prince George's county only so far as to authorize the appointment of a substitute foreman. This section com-